Security Council

Sixty-third year

Provisional

6047th meeting

Wednesday, 17 December 2008, 10 a.m.
New York

President:	Mr. Jurica	(Croatia)
Members:	Belgium	Mr. Grauls
	Burkina Faso	Mr. Tiendrébéogo
	China	Mr. Li Kexin
	Costa Rica	Mr. Weisleder
	France	Mr. Ripert
	Indonesia	Mr. Natalegawa
	Italy	Mr. Riccardo
	Libyan Arab Jamahiriya	Mr. Ettalhi
	Panama	Ms. Jácome
	Russian Federation	Mr. Rogachev
	South Africa	Mr. Laher
	United Kingdom of Great Britain and Northern Ireland	Mr. Quarrey
	United States of America	Mr. Wolff
	Viet Nam	Mr. Bui The Giang

Agenda

The situation in the Middle East

Letter dated 2 December 2008 from the Secretary-General addressed to the President of the Security Council (S/2008/752)

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08-65611 (E)

The meeting was called to order at 10.15 a.m.

Adoption of the agenda

The agenda was adopted.

The situation in the Middle East

Letter dated 2 December 2008 from the Secretary-General addressed to the President of the Security Council (S/2008/752)

The President: I should like to inform the Council that I have received a letter from the representative of Lebanon, in which he requests to be invited to participate in the consideration of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite that representative to participate in the consideration without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, Mr. Salam (Lebanon) took a seat at the Council table.

The President: In accordance with the understanding reached in the Council's prior consultations, I shall take it that the Security Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to Mr. Daniel Bellemare, Commissioner of the International Independent Investigation Commission.

It is so decided.

I invite Mr. Bellemare to take a seat at the Council table.

The Security Council will now begin its consideration of the item on its agenda. The Council is meeting in accordance with the understanding reached in its prior consultations.

Members of the Council have before them document S/2008/752, which contains a letter dated 2 December 2008 from the Secretary-General addressed to the President of the Security Council, transmitting the eleventh report of the International Independent Investigation Commission.

Members of the Council also have before them document S/2008/764, which contains a letter dated 4 December 2008 from the representative of Lebanon transmitting a letter from the Prime Minister of Lebanon.

At this meeting, the Security Council will hear a briefing by Mr. Daniel Bellemare, Commissioner of the International Independent Investigation Commission. I now give the floor to Mr. Bellemare.

Mr. Bellemare: It is my honour to present to the Council today the eleventh report of the International Independent Investigation Commission. As requested, it outlines the progress made in the investigation of the assassination of former Prime Minister Rafiq Hariri and other attacks that fall within the mandate of the Commission since my last report to the Security Council on 28 March 2008.

Public confidence is essential to the credibility of any investigative or judicial process. The public, be it the people of Lebanon or the international community, must believe in the process that has been set up to find the truth, to achieve justice and, eventually, to put an end to impunity. The public must believe that the Commission is professional, that it operates according to the highest international standards, and that the process it follows is objective, neutral and impartial. Understandably, emotions are high, but there is no room for emotion or sentiment in this fact-driven process. While there is anxiety and impatience, the process must be allowed to follow its course. And, more important, while the process may have political fallout, it must not be influenced by politics. The paradox is that the elements that make the process credible are the very same that make it frustrating for observers.

While the creation of the Special Tribunal for Lebanon may at the outset have been a political decision, the response that it is expected to provide will be a legal response, not a political one. Indeed, once created, the Tribunal will be expected to act independently, according to rules of procedure and evidence based on recognized principles of international law. It should not be allowed to be politicized. In that regard, during a recent interview with the Al-Arabiya television station, the Minister of Justice of Lebanon, Mr. Ibrahim Najjar, reminded viewers that the Tribunal cannot and should not be used as a political tool.

There is some confusion about the Tribunal and what will happen after 1 March. Much of that confusion results, in my view, from the terminology.

For many people, the word "tribunal" equates with "trial". It is therefore not surprising that, when the Secretary-General announced that the Tribunal was fully on track to start functioning on 1 March 2009, people immediately thought that this meant that indictments would be filed and that a trial would start soon thereafter.

At this point, it might be useful to clarify the process. A good way to try to remove this confusion is probably to explain my future role as Prosecutor.

As Prosecutor of the Tribunal, I was given two distinct responsibilities: first, the responsibility to investigate, and secondly, the responsibility to prosecute. Accordingly, those who established the Tribunal in 2007 foresaw that there would be two successive phases in the process before the Tribunal: an investigation and eventually, a prosecution. Of course, the second phase cannot begin before the first one is completed. Thus, when I become Prosecutor, it should not be surprising to see me continue as an investigator. This is the very nature of the process. The investigation continues.

Fast-food justice is not on the menu. And let me be clear: There will be no indictment of convenience. The fact that it was contemplated all along that the Prosecutor would continue his investigation after the creation of the Tribunal provides a useful context to the decision of the Secretary-General to announce the start of the Tribunal. Indeed, he has determined that, in light of all the circumstances, the time had come for the investigation to move to its international phase, and that the time had come for the Prosecutor to take on the lead from the Lebanese authorities in the Hariri investigation. The Prime Minister of Lebanon has confirmed that Lebanon — for which, and at the request of which the international Tribunal was established — is content with this commencement date.

Progress has been made in the investigation since my last report. Let me summarize what I can say publicly about this progress.

In relation to the Hariri investigation, I stated before that we had gathered evidence establishing that a network of individuals acted in concert to carry out the assassination. Since then, the Commission has identified new information that may allow us to link additional individuals with the network. Progress has also been made in relation to identifying the geographical origin of the suicide bomber in the Hariri case and extensive work has been concluded in relation to our inventory of exhibits.

In relation to the other attacks, there have been two main developments. First, the Commission has found additional elements to corroborate the links already found between the Hariri case and some of the other attacks. The second development is that the Commission has found elements to link one additional attack to the Hariri case.

I know that people want to have more details. They want to know the exact nature of the progress achieved; they want to know what the Commission has discovered so far and what leads are currently being pursued. I have said as much as I can, responsibly. It must be remembered that lives are at risk. I will not argue my case in the media or in public, and I know that that is not what is expected of me. When I am ready, I will present my case to a judge who will decide whether I have sufficient evidence to proceed with indictments.

Unfortunately, I cannot predict when the investigation will be completed. While I can direct the pace of the investigation, I cannot dictate its progress. As much as I would like to, I cannot predict when all the various elements of evidence required to support an indictment will be discovered, nor can I predict when individuals who have more information relevant to the investigation, or who know what happened, will step forward. Accepting this uncertainty, we must continue to be determined and resolute. We must stay the course on all the cases within the Commission's mandate.

As the Council knows, at the end of last month, the Secretary-General announced that the Tribunal was fully on track to commence functioning on 1 March 2009. The mandate of the Commission is set to expire on 31 December of this year, but I have sought a two-month extension to allow the Commission to continue to function until the day the Tribunal starts its operation.

This extension would serve two objectives. First, it would allow the momentum of the investigation to be maintained. Rather than have a two-month gap between the end of the Commission's activities and the start of the Tribunal's, the investigation could continue as seamlessly as possible from one institution to the other.

Secondly, the extension would also provide a period of time in which the Commission could

gradually transfer its investigative operations from a Beirut base to a base in The Hague, several thousand kilometres away. This is not something that can happen overnight. Such a move has to be planned and well-orchestrated. While the investigation continues, staff members have to be transferred and new ones have to be hired. In coordination with the Registry, the infrastructure must be made ready to receive staff members, their offices need to be furnished and systems must be made operational.

Transition is a process — a process that requires a large degree of coordination with the Registrar and his staff and that must be supported by complex and elaborate logistics. It should therefore not be surprising that a transition period to achieve this move in an orderly fashion.

This is why I am requesting that the mandate of the Commission be extended for two months until 28 February 2009. During this period, the Commission will continue to operate in Beirut while its staff and assets are progressively moved to The Hague. By the date set by the Secretary-General, staff, including myself, will be fully installed and operational.

I cannot conclude my presentation without referring to the situation of the detainees in the Hariri case. This is an issue that is of interest to many, and rightly so. I can assure the Council that this is an issue that is also important to me.

As I mentioned in my report, the Commission has continued to share with the Lebanese authorities all the information required to allow them to make a decision on the detainees. Moreover, the detention has been discussed with the Lebanese judicial authorities, with whom I have shared my views.

Again, I can only reiterate, as the Minister of Justice of Lebanon forcefully did during a recent television interview, that the Commission gives information to the Lebanese judicial authorities, but that the power of the judicial authorities is absolute on these matters. If transferred to The Hague, the detainees will then be in a position to seek new remedies before the Tribunal. Meanwhile, as Minister Najjar said, no one gives orders to the Lebanese judiciary.

Having addressed the progress of the investigation and the timing of eventual indictments, one question remains, and this question is on everyone's mind. Is there a case or will there ever be a case? To put it differently, can this case be solved?

There is no such thing as a perfect crime, and the process that I am involved in supports this assumption. This investigation is probably one of the most difficult in recent times. Nobody can give guarantees, nor should we expect any. There are too many variables.

So, can this case be solved? While no one ever said it would be easy, my answer to this question is unequivocal: yes, this case can be solved. As we all know, the investigative process is long and, at times, fastidious. Accordingly, donor countries are entitled to ask the question: Is it worth continuing? Once again, my answer is unequivocal: absolutely!

The investigation at the Tribunal must indeed continue in all the cases within the Commission's current mandate so that I, as Prosecutor, can establish which ones are connected to the Hariri case in the manner required by the Tribunal's statute.

While progress has been made, more must be done. As well-intentioned and committed as it is, the Commission cannot do that alone; it needs help — information, resources and expertise. Let me say this one more time: Member States that can help must share the responsibility in the investigation; they have an obligation to help the investigation.

With the members of my team, I am committed to this process. The search for the truth is a process that is well worth pursuing. The day when I no longer believe that we can make progress, I will say so. However, in the meantime, what I said to my team on my first day on the job continues to be very much applicable: I did not come out of retirement to be associated with a failure.

The President: I thank Mr. Bellemare for his briefing.

I now call on the representative of Lebanon.

Mr. Salam (Lebanon) (*spoke in Arabic*): I should like at the outset to congratulate you, Sir, on your assumption of the presidency of the Security Council for the current month and the delegation of Costa Rica on a successful Council presidency last month. I thank Commissioner Bellemare for his report to the Council on the progress made in the work of the International Independent Investigation Commission and for his detailed briefing today. I take this opportunity to

express to him and his team my great appreciation and that of my Government for their efforts.

Some might consider that the format of this meeting, at which the Council hears briefings by Commissioner Bellemare, has become a routine affair. However, this meeting has a particular meaning for Lebanon because it coincides with the international celebration of the sixtieth anniversary of the adoption of the Universal Declaration of Human Rights, in the drafting of which Lebanon had the honour to participate. Included among those rights is the right to life, liberty and security of person — a basic right that cowardly terrorists tried to undermine by assassinating a number of my country's leaders and other innocent civilians through a sinister and criminal plot involving a series of explosions. This meeting also coincides with the third anniversary of the assassination of Lebanese Member of Parliament Gebran Tueni and the first anniversary of the assassination of Brigadier General François al-Hajj, and is being held only two months before the fourth anniversary of the assassination of Prime Minister Rafiq Hariri and a number of his colleagues.

It was following that event that, for the first time, we addressed the Security Council to seek support for our efforts to find the truth and put an end to the impunity of the perpetrators. Since then, we have sought only to find the truth and to administer justice, because we believe that that is the best and most effective way to prevent terrorists from continuing their crimes.

The Lebanese Government of National Unity, formed after the adoption of the Doha Agreement and the holding of our presidential elections, highlighted in its statement to Parliament its commitment to the international tribunal established under Security Council resolution 1757 (2007) to prosecute the crime of the assassination of the martyred Prime Minister Rafiq Hariri and his colleagues and other assassination attempts and to administer justice, rather than seek vengeance and politicization. That commitment was reaffirmed by President Michel Sleiman in his address to the General Assembly on 23 September. Today's meeting also follows the Secretary-General's declaration on 30 November that the Special Tribunal for Lebanon is fully prepared to begin its work on 1 March 2009. For all those reasons, today's meeting is an important event not only for the families of the martyrs and victims, but also for all Lebanese citizens, who have the right to a secure, dignified life far removed from terrorists and terrorism.

With regard to the content of the eleventh report of the Commission submitted by Commissioner Bellemare, my delegation cannot fail to welcome the progress made in the investigations and the new information received by the Commission, which will enable it to determine the identities of additional persons related to the terrorist network that carried out the assassination of former Prime Minister Rafiq Hariri. We welcome the finding that that crime is linked with others being investigated by the Commission. In addition, we commend the Commission for its efforts to base its work on concrete evidence, in accordance with the highest norms of international law.

We hope that the Security Council will respond positively to the request that it extend the Commission's mandate from 31 December 2008 to 28 February 2009 in order to ensure a smooth transition between the investigation and the commencement of the Special Tribunal's work, when Commissioner Bellemare will begin his duties as Prosecutor. We look forward to the commencement of the Special Tribunal's work upon the completion of the transitional phase. We wish to thank Secretary-General Ban Ki-moon for his continued efforts to support the progress of justice for Lebanon and the Lebanese. We reaffirm that cooperation among the Commission, the Lebanese authorities and the investigation on logistical matters regarding the security of the Commission and its personnel will continue.

Finally, we wish to thank all Member States that have supported the work of the Commission. Whenever the Commission makes progress in searching for the truth, we come closer to the time when the Tribunal can begin its work so that we can achieve justice and breathe life into the ancient Roman maxim that truth is the mother of justice.

The President: There are no further speakers on my list. In accordance with the understanding reached in the Council's prior consultations, I should now like to invite Council members to informal consultations to continue our discussion of the subject.

The meeting rose at 10.40 a.m.